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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/033,302	12/27/2001	R. Rox Anderson	P00547/70061 PCL	8214

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WOLF GREENFIELD & SACKS, PC
FEDERAL RESERVE PLAZA
600 ATLANTIC AVENUE
BOSTON, MA 02210-2211

EXAMINER

SHAY, DAVID M

ART UNIT	PAPER NUMBER
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3739

DATE MAILED: 10/23/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/033,302

Applicant(s)

Anderson et al

Examiner

J. Stoy

Group Art Unit

3739

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on August 13, 2003.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-46 is/are pending in the application.
Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-46 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____.
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 8-10
- ☒ Notice of References Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

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The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 21 and 28-32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 21 is indefinite because the exact ranges claimed are unclear, due to the recitation of preferred ranges. The claim will be interpreted as requiring the non-preferred range. Claims 28-32 are indefinite as it is unclear how the treatment volume size limits the structure of the device.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 5-8, 14-16, 20, 22, 23, 25, 27-33, 35-37, 40, 41, 45 and 46 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Fuller et al.

See Figures 2-7 and 14-19; column 4, line 16 to column 7, line 50; and column 8, line 63 to column 12, line 23.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 1-12, 14-20, 22, 23, 25, 45 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fuller et al in combination with Baronov. Fuller et al teach a device such as claimed, except irradiating a plurality of sites simultaneously and pre-cooling the tissue to a predetermined temperature at a predetermined depth. Baronov teaches pre-cooling skin to achieve a pre-determined temperature at a treatment depth, and simultaneously irradiating treatment zones that are a percentage of a treatment volume. It would have been obvious to employ the cooling system of Baronov in the method of Fuller et al, since this provides proper regulation of temperatures at all affected tissue layers, as taught by Baronov, thus producing a method such as claimed.

Claims 13 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fuller et al in combination with Baronov as applied to claims 1-12, 14-20, 22, 23, 25, 45 and 46 above, and further in view of Green. Green teaches treating acne using laser pulses of the thermal relaxation time of the structure. It would have been obvious to the artisan of ordinary skill to employ a treatment method for acne as taught by Green, since this is an effective method of dermatological treatment as taught by Green, thus producing a method such as claimed.

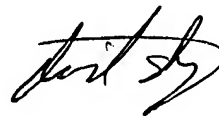
Claims 13, 24 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fuller et al in combination with Baronov as applied to claims 1-12, 14-20, 22, 23, 25, 45 and 46 above, and further in view of Anderson. Anderson teaches the equivalence of hair removal treatments and acne treatment. It would have been obvious to the artisan of ordinary skill to employ the acne and hair treatment methods in the method of Fuller et al, since laser treatments are efficacious for hair removal as noted by Fuller et al thus producing a method such as claimed.

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Claims 27-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fuller et al in combination with Baronov. The teachings of Baronov and Fuller et al and the motivations and combination thereof are essentially those already set forth above. Thus it would have been obvious to the artisan of ordinary skill to combine these old and well known teachings to produce a device such as claimed.

Claim 44 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fuller et al in combination with Baronov as applied to claims 27-43 above, and further in view of Furumoto. Furumoto teaches treating blood vessels with pulse widths which are greater than the thermal relaxation time. It would have been obvious to the artisan of ordinary skill to employ pulses of greater than the thermal relaxation time, since this enhances the permanency of treatment, thus producing a device such as claimed.

Any inquiry concerning this communication should be directed to David Shay at telephone number 308-2215.



Shay/DI

October 8, 2003

DAVID M. SHAY
PRIMARY EXAMINER
GROUP 330